Supreme Court of the United States

OCTOBER TERM, 1934.

No.....

EDWARD B. DOUGLAS,

Petitioner,

vs.

LEVI M. WILLCUTS, AS COLLECTOR OF INTERNAL REVENUE FOR THE DISTRICT OF MINNESOTA,

Respondent.

BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI.

OPINIONS BELOW.

The opinion of the Circuit Court of Appeals for the Eighth Circuit, rendered September 10, 1934, ... F. (2d) ..., is found at page 88 of the Record. The United States District Court, District of Minnesota, filed no opinion.

JURISDICTION.

This Petition is made under Section 240 of the Judicial Code, as amended by the Act of February 13, 1925, 43 Stat. 938. The date of the judgment asked to be reviewed is September 10, 1934. A Petition for Rehearing was denied October 22, 1934.

SUMMARY OF ARGUMENT.

1. The Circuit Court of Appeals, in deciding that the income of the trust created by Petitioner distributed to the life beneficiary is Petitioner's income, has decided that an assignor is taxable on the income of property arising after such property has been irrevocably assigned, although the assignor has relinquished the right to demand and obtain the income and control it after its receipt, and thus has decided an important question of Federal law which has not been but should be settled by this Court.

   (a) The income taxed to Petitioner is income of property held in trust and taxable to the fiduciary or the life beneficiary under Sections 219, Revenue Act of 1926, and 161 and 162, Revenue Act of 1928, *supra*.

   (b) Neither *Burnet vs. Wells*, 289 U. S. 670, nor the doctrine that the amount of a legal obligation assumed and paid by an assignee of property is taxable income to the assignor, which controlled the view of the Circuit Court of Appeals, is applicable.

2. The Circuit Court of Appeals, in deciding that the income of property irrevocably held in a trust established by the grantor pursuant to an agreement with his divorced wife, who accepted the benefits thereof in lieu of her interest (dower or statutory) in his property and estate and right to maintenance or support, distributable to and received by the wife, the life beneficiary, has decided that the divorced wife has not voluntarily elected to assume the position of a beneficiary or a donee and, thus, it has decided a question of Federal income tax law in a way which is in

conflict with applicable decisions of this Court.

(a) The decision conflicts with the principles underlying *Helvering, Commissioner of Internal Revenue, vs. Butterworth, et al., Trustees,* and *Helvering, Commissioner of Interpal Revenue, vs. Perdee, et al., Trustees,* 290 U. S. 365.

3. The Circuit Court of Appeals, in deciding that Petitioner is taxable on the income of the trust created by him, distributable and distributed to the life beneficiary, has decided that, although property is irrevocably assigned and the assignor has irrevocably relinquished the right to demand and obtain the income thereof and control it after its receipt, the assignor is taxable on the income arising after the assignment and has thus rendered a decision in conflict with the decisions of other Circuit Courts of Appeal on the same matter.

ARGUMENT.

1. THE CIRCUIT COURT OF APPEALS, IN DECIDING THAT THE INCOME OF THE TRUST CREATED BY PETITIONER DISTRIBUTED TO THE LIFE BENEFICIARY IS PETITIONER'S INCOME, HAS DECIDED THAT AN ASSIGNOR IS TAXABLE ON THE INCOME OF PROPERTY ARISING AFTER SUCH PROPERTY HAS BEEN IRREVOCABLY ASSIGNED, ALTHOUGH THE ASSIGNOR HAS RELINQUISHED THE RIGHT TO DEMAND AND OBTAIN THE INCOME AND CONTROL IT AFTER ITS RECEIPT, AND THUS HAS DECIDED AN IMPORTANT QUESTION OF FEDERAL LAW WHICH HAS NOT BEEN BUT SHOULD BE SETTLED BY THIS COURT.

(a) The income taxed to Petitioner is income of property held in trust and taxable to the fiduciary or the life beneficiary under Sections 219, Revenue Act of 1926, and 161 and 162, Revenue Act of 1928, *supra*.

The Congress has expressly provided that the income of property held in trust, with exceptions not here material, shall be taxed to the fiduciary or to the beneficiary in cases where the income is distributable. *Section 219, Revenue Act of 1926*, and *Sections 161 and 162, Revenue Act of 1928, supra*. The agreement (Exhibit I, R. 7) is effective to create a valid, express trust under Subdivisions 5 and 6, Section 8090, General Statutes of Minnesota, 1923; Mason's Minnesota Statutes, 1927, which are as follows:

"8090. Purposes of express trusts—Duration—Express trusts may be created for any of the following purposes:

* * * * * * * * *

(5) To receive and take charge of any money, stocks, bonds, or valuable chattels of any kind and to invest

and loan the same for the benefit of the beneficiaries of such express trust; and the District Courts of the state shall, upon petition and hearing have power to appoint a trustee for the purpose herein set forth, requiring such trustee to give such bond for the faithful execution of such express trust as to the court may seem right and proper; and express trusts created under the provisions of this paragraph shall be administered under the direction of the court.

(6) For the beneficial interests of any person or persons, whether such trust embraces real or personal property, or both, when the trust is fully expressed and clearly defined on the fact of the instrument creating it: Provided, that the trust shall not continue for a period longer than the life or lives of specified persons in being at the time of its creation, and for twenty-one years after the death of the survivor of them, and that the free alienation of the legal estate by the trustee is not suspended for a period exceeding the limit prescribed in chapter 59."

Congdon vs. Congdon, 160 Minn. 343, 200 N. W. 76; *First Trust Company of St. Paul vs. Matheson, et al.,* 187 Minn. 468, 246 N. W. 1. The trust is irrevocable since Petitioner reserved no power to himself to alter or modify it or revest the corpus in himself. *Ewing vs. Warner,* 47 Minn. 446, 50 N. W. 603. The transfer was effective to divest Petitioner of the legal title to the corpus and invest Petitioner's divorced wife with an equitable interest for life in the trust, which became her separate estate and was transferable by her. *Jones vs. Clifton,* 101 U. S. 225; *Simmons vs. Northwestern Company,* 136 Minn. 357, 360, 162 N. W. 450; *Jacobson vs. Mankato Loan & Trust Co.,* 191 Minn. ..., 253 N. W. 365; *Perry, Trusts,* 7th Edition, Sec. 827 (a); *Walker vs.*

Walker's Executor, 9 Wall. 743; *Commissioner of Internal Revenue vs. Field* (C. C. A. 2), 42 F. (2d) 820.

The question involved in Petitioner's case has been before the United States Board of Tax Appeals in several cases, and it has construed and applied Sections 219, Revenue Act of 1926, and 161 and 162, Revenue Act of 1928, *supra*, to facts similar to those involved in Petitioner's case. The Board has held that property irrevocably assigned to a Trustee for the benefit of a divorced wife, who takes the benefits thereof in lieu of her interest in her former husband's property and all claim for maintenance and support, is not taxable to the assignor, the former husband. The Commissioner of Internal Revenue was in accord.

O. D. 1092, 5 C. B. 190 (July to December, 1921); *Lynch vs. Commissioner,* 23 B. T. A. 435; *Reginald Brooks vs. Commissioner,* 31 B. T. A. 70; *James H. Hyde vs. Commissioner,* 31 B. T. A. ...., No. 57. In *Hyde vs. Commissioner,* the Board says:

> "We think that no question can be raised but that a husband may make a valid gift of property to his wife and that thereafter the income from the donated property is the taxable income of the wife and not of the husband. We likewise think that it is plain that where a husband in good faith and not for the purpose of avoiding taxes creates a trust, the income from the trust fund to be paid currently to the wife, and the husband does not retain a power of revocation, the husband is not taxable upon income paid to the wife. We cannot see how the rule is any different where the husband creates a trust fund for the benefit of his divorced wife. Nor do we think it makes any difference that the divorced wife in the proceedings at bar relinquished all

claims for alimony, dower rights, maintenance and support in connection with the creation of a trust fund. See Reginald Brooks, 31 B. T. A. 70. She did not thereby acquire the right to receive the income from the fund by purchase for a valuable consideration. *Helvering vs. Butterworth, supra.*"

Where, as in Petitioner's case, property is irrevocably assigned and the assignor has relinquished the right to demand and obtain the income thereof and control it after its receipt, the rule is that income arising after the assignment is not taxable to the assignor. The rule is applicable even though the assignee is the assignor's wife or a trustee for the assignor's kin. *Commissioner vs. Field* (C. C. A. 2), 42 F. (2d) 820; *Langley vs. Commissioner* (C. C. A. 2), 61 F. (2d) 796; *Hall vs. Burnet* (C. A. D. C.), 54 F. (2d) 443, Certiorari denied, 285 U. S. 552. Since the same considerations as to ownership and control apply in cases involving the imposition of Federal estate and gift taxes on transfers of property, *Reinecke vs. Northern Trust Company*, 278 U. S. 339; *Burnet vs. Guggenheim*, 288 U. S. 280, and *Heiner vs. Donnan*, 285 U. S. 312, are apposite. The result reached by the Circuit Court of Appeals in Petitioner's case is aptly characterized by the following language from the opinion of this Court in *Heiner vs. Donnan, supra*:

"The result is that upon those who succeed to the decedent's estate there is imposed the burden of a tax, measured in part by property which comprises no portion of the estate, to which the estate is in no way related, and from which the estate derives no benefit of any description. *Plainly, this is to measure the tax on A's property by imputing to it in part the value of the property of B, a result which both the Schlesinger and Hoeper cases*

condemn as arbitrary and a denial of due process of law."

(b) Neither *Burnet vs. Wells*, 289 U. S. 670, nor the doctrine that the amount of a legal obligation assumed and paid by an assignee of property is taxable income to the assignor, which controlled the view of the Circuit Court of Appeals, is applicable.

The decision of this Court in the case of *Burnet vs. Wells*, 289 U. S. 670, controlled the view of the Circuit Court of Appeals regarding Petitioner's liability for the tax on the income of the trust created by him. It is apparent that the Court below felt compelled to reach the conclusion it did by the following statement of this Court made in the course of its opinion in the *Wells* decision:

> "The solidarity of the family is to make it possible for the taxpayer to surrender title to another and to keep dominion for himself, or, if not technical dominion, at least the substance of enjoyment" (p. 677).

We contend that the *Wells* case is inapplicable. There the constitutionality of Section 219 (h), Revenue Act of 1924, 43 Stat. 253, and Section 219 (h), Revenue Act of 1926, *supra*, was challenged and the sole issue was as to the power of Congress to extend the concept of ownership applicable to the grantor to include income of an irrevocable trust used to pay premiums on policies of insurance on the grantor's life. While the challenged enactment was upheld, this Court, in the course of its opinion, expressly says:

> "Trusts for the preservation of policies of insurance involve a continuing exercise by the settlor of a power to direct the application of the income along predeter-

mined channels. In this they are to be distinguished from trusts where the income of a fund, though payable to wife or kin, may be expended by the beneficiaries without restraint, may be given away or squandered, the founder of the trust doing nothing to impose his will upon the use" (p. 681).

The Circuit Court of Appeals ignored the distinction noted by this Court between trusts for the benefit of wife or kin not subject to the grantor's control and trusts for the preservation of policies of insurance and the facts that the income involved in Petitioner's case is not income used to pay premiums on policies of insurance on Petitioner's life and that the Congress had expressly provided for the taxation to the grantor of the income involved in the Wells case, factors not present in Petitioner's case. Here the property is not kept in a family, for the trust created by Petitioner is for the benefit of one who stands as a stranger to him. The life beneficiary is Petitioner's divorced wife and the divorce is absolute.

The doctrine that a legal obligation of one which is assumed and paid by another is income to the former is based upon the theory that the one legally obligated has been benefited to the extent of the amount of his legal obligation assumed and paid by another and that such benefit is the equivalent of taxable income. In finding that Petitioner has enjoyed the equivalent of taxable income the Circuit Court of Appeals has interpreted the divorce decree (R. 54-55) in a way which Petitioner contends is untenable. The decree clearly shows that an absolute divorce was granted. Petitioner's general duty to maintain and support his divorced wife was thereby terminated. It does not, in terms or by inference, require Petitioner to pay his divorced wife any

amount thereafter for her maintenance and support. It does order Petitioner to create the fund he had already created (R. 58). He had thus fulfilled the sole duty imposed upon him by the Court. It does require the wife to take the trust provisions in lieu of her interest in Petitioner's property and estate and of any further alimony or provision for maintenance and support. This she had agreed to do. Its effect is to confirm as fair and reasonable the agreement of the parties. *Nelson vs. Vassenden,* 115 Minn. 1, 131 N. W. 794. Petitioner's liability after the decree (Sec. 8603, General Statutes of Minnesota, 1923, *infra,* Appendix A) is so contingent that it does not furnish a reasonable basis for invoking the doctrine referred to. The cases which support the doctrine are not based upon contingent liabilities. *Old Colony Trust Co. vs. Commissioner,* 279 U. S. 716; *U. S. vs. Boston & Maine Railroad Company,* 279 U. S. 732. The finding that Petitioner is obligated to his divorced wife is an inference contrary to the facts expressed in the agreement (Exhibit I, R. 7 to 18) and the decree, *Frank vs. Commissioner of Internal Revenue* (C. C. A. 3), 51 F. (2d) 923, and to the binding effect of the divorced wife's release. *Cairns vs. Lewis,* 169 Minn. 156, 210 N. W. 885.

2. THE CIRCUIT COURT OF APPEALS, IN DECIDING THAT THE INCOME OF PROPERTY IRREVOCABLY HELD IN A TRUST ESTABLISHED BY THE GRANTOR PURSUANT TO AN AGREEMENT WITH HIS DIVORCED WIFE, WHO ACCEPTED THE BENEFITS THEREOF IN LIEU OF HER INTEREST (DOWER OR STATUTORY) IN HIS PROPERTY AND ESTATE AND RIGHT TO MAINTENANCE OR SUPPORT, DISTRIBUTABLE TO AND RECEIVED BY THE WIFE, THE LIFE BENEFICIARY, HAS DECIDED THAT THE DIVORCED WIFE HAS NOT VOLUNTARILY ELECTED TO ASSUME THE POSITION OF A BENEFICIARY OR A DONEE AND, THUS, IT HAS DECIDED A QUESTION OF FEDERAL INCOME TAX LAW IN A WAY WHICH IS IN CONFLICT WITH APPLICABLE DECISIONS OF THIS COURT.

The logical result of the rule announced by this Court in *Helvering, Commissioner of Internal Revenue, vs. Butterworth, et al., Trustees (Same vs. Pardee)*, 290 U. S. 365, that income of an established trust is taxable either to the fiduciary or the beneficiary, is that the grantor is not taxable on such income. It is conceded that this Court did not have before it the precise question involved in the case at bar or the question of a beneficiary's tax liability, but the opinion of the Court appears to be unequivocal in respect of its views thereon, for, after holding that

> "When she makes her election the widow decides to accept the benefits of the will with the accompanying rights and liabilities. In no proper sense does she purchase an annuity. For reasons satisfactory to herself, she expresses a desire to occupy the position of a beneficiary and we think she should be so treated,"

the Court, noting decisions of Circuit Courts of Appeal to the effect that payments of income to a widow were not subject to income tax until such time as the total receipts of the

trust amounted to the value of the widow's statutory interest which she had relinquished in order to accept under the will, says:

> "We cannot accept the reasoning advanced to support the three cases just cited. The evident general purpose of the statute was to tax in some way the whole income of all trust estates. If nothing was payable to beneficiaries, the income without deduction was assessable to the fiduciary. But he was entitled to credit for any sum paid to a beneficiary within the intendment of that word, and this amount then became taxable to the beneficiary. Certainly, Congress did not intend any income from a trust should escape taxation unless definitely exempted."

The principles underlying the foregoing decision are applicable to a trust created *inter vivos*:

Houston White, et al., as Trustees for Mrs. W. Woods White, et al., vs. J. T. Rose (C. C. A. 5, No. 7128, October 31, 1934), ... F. (2d) ..., 1934 Prentice Hall Federal Tax Service, Par. 1917; 343A C. C. H., Par. 9491, involved a transfer by the widow and children of an intestate of their statutory interests in common in his property to trustees in trust to pay, at least quarterly, to the widow during her life the net income remaining after paying expenses and excess trust income over and above that necessary for the widow's maintenance and support to the children, share and share alike, in the trustees' discretion, and at the widow's death to pay over the corpus and accrued income to the children. The widow, in addition to her statutory interest, transferred some shares of stock individually owned to the trustees. In holding that the widow was taxable under Section 162 of the Revenue Act of 1928 on the income of the trust distributed to her in 1928, the Circuit Court of Appeals says:

"The trust is a valid, active trust under Georgia law. Mrs. White, in entering into it exchanged her legal interest to the 250 shares of stock and to her interest in her husband's property for the income during her life from all the property not in excess of what was necessary for her maintenance and support according to her station in life. She is thus a purchaser, yet not a creditor of or an encumbrancer on the trust, but a beneficiary of it for her lifetime. She has no annuity, nor any equivalent of one. She is entitled to receive income only, no matter how little it may be—never any corpus. She may, if the income exceeds her needs in the judgment of the trustees, not get all of it, but she can never get more. What she gets is income. The trustees pay it and she receives it as such. They do not pay any debt on the trust, but they account for its income to her. She is the beneficiary of the trust, and they are her trustees. The case falls under *Helvering vs. Butterworth* rather than *Helvering vs. Pardee.* See also *Title Guarantee & Trust Co. vs. Commissioner,* 63 F. (2d) 621."

We submit that Ida M. Douglas had an interest in Petitioner's property and estate upon which she could have realized if she had sought relief from the divorce court and not entered into the agreement with Petitioner. (Sec. 8602, General Statutes, Minnesota, 1923, *infra,* Appendix A.) But she did voluntarily elect to accept the benefits of the trust created by the Petitioner in lieu of that interest and any claim she had for future maintenance and support. Accordingly, she elected to become a beneficiary or a donee under the doctrine of the *Butterworth* and *Pardee* cases, *supra.* It follows, we contend, that Petitioner is not taxable on the income of the trust distributed to his divorced wife.

3. THE CIRCUIT COURT OF APPEALS, IN DECIDING THAT PETITIONER IS TAXABLE ON THE INCOME OF THE TRUST CREATED BY HIM, DISTRIBUTABLE AND DISTRIBUTED TO THE LIFE BENEFICIARY, HAS DECIDED THAT, ALTHOUGH PROPERTY IS IRREVOCABLY ASSIGNED AND THE ASSIGNOR HAS IRREVOCABLY RELINQUISHED THE RIGHT TO DEMAND AND OBTAIN THE INCOME THEREOF AND CONTROL IT AFTER ITS RECEIPT, THE ASSIGNOR IS TAXABLE ON THE INCOME ARISING AFTER THE ASSIGNMENT, AND HAS THUS RENDERED A DECISION IN CONFLICT WITH THE DECISIONS OF OTHER CIRCUIT COURTS OF APPEAL ON THE SAME MATTER.

Commissioner of Internal Revenue vs. Field (C. C. A. 2), 42 F. (2d) 820, involved the effect for Federal income tax purposes of a deed by Marshall Field to his wife assigning to her a two-thirds interest "in all the income of two-fifths of the residuary estate of Marshall Field, deceased, • • • intending hereby to convey to and invest in" his wife "an undivided two-thirds interest in all the net income adjudicated to belong to" him by an Illinois decree. After finding that the grantor had an existing interest in the property conveyed, the Court held that after the assignment the income thereafter derived from the property was not taxable to the assignor. It says:

> "We do not understand that, where there are such (existing interests in property) they may not be assigned like other property, or that, when they have been, the income is still taxable to the assignor. Hence the case turns upon whether, after the Illinois decree, Marshall had a present interest in the income of Henry's share assignable under the law of Illinois. If so, his deed, as effectively divested him of the assigned interest, as though it had been land or chattels; his wife became

the beneficiary under the trust and was the only person who could be taxed." (Words in parentheses supplied.)

Langley vs. Commissioner of Internal Revenue (C. C. A. 2), 61 F. (2d) 796, involved trusts created by a mother in favor of her daughter and a nephew, where there was, as the trusts were amended, a power of revocation requiring, however, notice of one year and one day and where notice of revocation was not given in the year 1928, the year in which the Commissioner of Internal Revenue taxed the income of the trusts to the grantor under Section 166, Revenue Act of 1928, *supra*. In holding that the grantor could not be taxed on the trust income the Court says:

"In the instant case, the principal of the trust so far as 1928 was concerned, had been irrevocably transferred and did not belong to the petitioner, and she, having put it beyond all control, gave the income during that year to another recipient. She could not by her own positive act revest herself with title to the property during the year 1928, within the terms of the trust and she had no control over the principal until the termination of the trust in that year. Therefore she had lost control of the income during the period of taxation. *Burnet vs. Leininger*, 285 U. S. 136, 52 S. Ct. 345, 76 L. Ed. 665; *Mitchel vs. Bowers*, 15 F. (2d) 287 (C. C. A. 2). Since during the year no act could be done by the petitioner so as to bring to her any portion of the corpus of the trusts or the income thereof, she is not subject to taxation within the purview of section 166."

Hall vs. Burnet (C. A. D. C.), 54 F. (2d) 443, Certiorari denied, 285 U. S. 552, involved an assignment by a husband to his wife of an interest in a contract for commissions on

insurance renewals and it was held that the husband was not taxable upon the income thereafter derived from such interest by his wife.

Marshall vs. Commissioner (C. C. A. 6), 57 F. (2d) 633, Certiorari denied, 287 U. S. 621, involved the transfer by a husband to his wife of shares of stock and it was there held that dividends thereafter received could not be included in the husband's income.

Shellabarger vs. Commissioner of Internal Revenue (C. C. A. 7), 38 F. (2d) 566, involved the assignment by the beneficiary of a trust to another of part of the trust income to avoid a contest of a will and it was held that the assignor was not taxable on the trust income thereafter received by her for her assignee.

Francis R. Hart vs. Commissioner (C. C. A. 1), 54 F. (2d) 848, involved interest on Liberty Bonds collected in 1926 by a receiver appointed by a court for the taxpayer, pending review of a District Court decision. The Circuit Court reversed the decision of the District Court in 1927 and the bonds with accumulated interest were restored to the taxpayer. It was held that the interest collected in 1926 was taxable to the receiver as a fiduciary.

Petitioner respectfully suggest that, if the view of the Circuit Court of Appeals that the trust created by him is a means provided by the Court for the payment of income to Petitioner's divorced wife, it involves, nevertheless, a transfer of property upon trust which the divorce court was authorized to require (*Section 8601, General Statutes of Minnesota, 1923, infra, Appendix A*) and in effect an impounding property similar to the situation which obtained in the *Hart* case, in which event he is not taxable on the income in question.

CONCLUSION.

For the reasons stated your Petitioner respectfully prays that a Writ of Certiorari issue to enable this Court to review the judgment of the Circuit Court of Appeals in this case.

Dated November 16, 1934.

Respectfully submitted,

CLARK R. FLETCHER,
1300 First National-Soo Line Bldg.,
Minneapolis, Minnesota,
Attorney for Petitioner.

Of Counsel:
LELAND W. SCOTT,
JUNELL, DRISCOLL, FLETCHER, DORSEY & BARKER.

APPENDIX A.

GENERAL STATUTES OF MINNESOTA, 1923:

8601. Trustee of alimony—The court may appoint trustees, whenever it is deemed expedient, to receive any money ordered to be paid to the wife, upon trust to invest the same, and pay over the income for the support of the wife, or of the wife and minor children of the parties, or any of them, in such manner as the court shall direct, or to pay over to the wife the principal sum in such proportions and at such times as the court shall order, regard being had in all such cases to the situation and circumstances of such wife, and the children if there are any, provided for in the order; and such trustees shall give such bond, as the court shall require, for the faithful performance of their trust.

8602. Property of husband—Permanent alimony—Upon a divorce for any cause except that of adultery committed by the wife, if the estate and property restored or awarded to her is insufficient for the suitable support of herself and such children of the marriage as shall be committed to her care and custody, or if there is no such estate and property, the court may further order and decree to her such part of the personal and real estate of the husband, not exceeding in value one-third thereof, as it deems just and reasonable, having regard to the ability of the husband, the character and situation of the parties, and all other circumstances of the case. The court may also, in the cases provided for in this section, decree to the wife such alimony out of the estate, earnings, and income of the husband as it may deem just and reasonable, having regard to the ability of the husband, the character and situation of the parties, and other circumstances of the case, and may by its decree make the same a specific lien upon any specified parcels of his real estate, or

authorize its enforcement by execution against his property, real and personal; but the aggregate award and allowance made to the wife from the estate of the husband under this section shall not in any case exceed in present value one-third of the personal estate, earnings, and income of the husband, and one-third in value of his real estate.

8603. Order for alimony, etc., revised—After an order or decree for alimony, or other allowance for the wife and children, or either of them, or for the appointment of trustees to receive and hold any property for the use of the wife or children, the court, from time to time, on petition of either of the parties, may revise and alter such order or decree respecting the amount of such alimony or allowance, and the payment thereof, and also respecting the appropriation and payment of the principal and income of the property so held in trust, and may make any order respecting any of the said matters which it might have made in the original action.

8607. Effect of divorce—Name of wife—Whenever a decree of divorce from the bonds of matrimony is granted in this state, such decree shall completely dissolve the marriage contract as to both parties. And in all actions for a divorce brought by a woman, if a divorce is granted, the court may change the name of such woman, who shall thereafter be known by such name as the court designates in its decree.